



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 13 2019

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Allen Kronebusch, CEO  
AKE Safety Equipment  
32 Woodlake Drive  
Rochester, Minnesota 55904

Re: Finding of Violation  
AKE Safety Equipment  
Rochester, Minnesota

Dear Mr. Kronebusch:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to AKE Safety Equipment (AKE or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating the regulations for the Protection of Stratospheric Ozone at your Rochester, Minnesota facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Natalie Topinka. You may contact her at (312) 886-3853 or [topinka.natalie@epa.gov](mailto:topinka.natalie@epa.gov) to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

*Michael D. Harris*

Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

Enclosure

cc: Sarah Kilgriff, Land and Air Compliance Section Manager, MPCA

5. The Labeling Requirements, at 40 C.F.R. § 82.104 (a) states “Class I substance” means any substance designated as class I in 40 C.F.R. part 82, appendix A to subpart A, including chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform and any other substance so designated by the Agency at a later date.

6. The Labeling Requirements, at 40 C.F.R. § 82.104(r) states "Product" means an item or category of items manufactured from raw or recycled materials, or other products, which is used to perform a function or task.

7. The Labeling Requirements, at 40 C.F.R. § 82.104 (s) states "Product containing" means a product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance at the point of sale to the ultimate consumer which remains within the product.

8. The Labeling Requirements, at 40 C.F.R. § 82.104 (aa) states "Warning label" means the warning statement required by section 611 of the Act. The term warning statement shall be synonymous with warning label for purposes of this subpart.

9. Halon 1211 (CF<sub>2</sub> ClBr-Bromochlorodifluoromethane) is designated as a Class I Controlled Substance per 40 C.F.R. Part 82, Appendix A to Subpart A, effective May 10, 1995. See 60 FR 24986.

10. The Labeling Requirements, at 40 C.F.R. § 82.106 (a) provides that unless otherwise exempted by Subpart E, each container or product identified in 40 C.F.R. §82.102 (a) or (b) shall bear the following warning statement, meeting the requirements of this subpart for placement and form:

WARNING: Contains [or Manufactured with, if applicable] *[insert name of substance]*, a substance which harms public health and environment by destroying ozone in the upper atmosphere.

11. The Labeling Requirements, at 40 C.F.R. § 82.106 (b) list exemptions from the warning label requirements of 40 C.F.R. § 82.106 (a).

12. The Labeling Requirements, at 40 C.F.R. § 82.124 (a)(1)(i) provides that Applicable May 15, 1993, or one year after the designation of a substance as a class I or class II substance unless otherwise specified in the designation, no container or product identified in 40 C.F.R. §82.102(a) may be introduced into interstate commerce unless it bears a warning statement that complies with the requirements of 40 C.F.R. §82.106(a), unless an exemption applies.

#### Subpart H – Halon Emissions Reduction

13. In accordance with Section 608 of the CAA, 42 U.S.C. § 7671g, EPA promulgated regulations at 40 C.F.R. Part 82, Subpart H, applicable to Halon Emissions Reduction.

14. Subpart H, at 40 C.F.R. § 82.250(a), provides that the purpose of Subpart H is to reduce the emissions of halon in accordance with section 608 of the CAA by banning the manufacture of halon blends; banning the intentional release of halons during repair, testing, and disposal of equipment containing halons and during technician training; requiring organizations that employ technicians to provide emissions reduction training; and requiring proper disposal of halons and equipment containing halons.

15. Subpart H, at 40 C.F.R. § 82.250(b), provides that the subpart applies to any person testing, servicing, maintaining, repairing or disposing of equipment that contains halons or using such equipment during technician training. Subpart H also applies to any person disposing of halons; to manufacturers of halon blends; and to organizations that employ technicians who service halon-containing equipment.

16. Subpart H, at 40 C.F.R. § 82.260, states "Halon" means any of the Class I, Group II substances listed in subpart A, appendix A of 40 CFR part 82. This group consists of the three halogenated hydrocarbons known as Halon 1211, Halon 1301, and Halon 2402, and all isomers of these chemicals.

17. Subpart H, at 40 C.F.R. § 82.260, states "Halon-containing equipment" means equipment used to store, transfer, and/or disperse halon.

18. Subpart H, at 40 C.F.R. § 82.260, states "Person" means any individual or legal entity, including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, Indian tribe, and any agency, department, or instrumentality of the United States, and any officer, agent, or employee thereof.

19. Subpart H, at 40 C.F.R. § 82.260, states "Technician" means any person who performs testing, maintenance, service, or repair that could reasonably be expected to release halons from equipment into the atmosphere. Technician also means any person who performs disposal of equipment that could reasonably be expected to release halons from the equipment into the atmosphere. Technician includes but is not limited to installers, contractor employees, in-house service personnel, and in some cases, owners.

20. Subpart H, at 40 C.F.R. § 82.270 (b), provides that effective April 6, 1998, no person testing, maintaining, servicing, repairing, or disposing of halon-containing equipment or using such equipment for technician training may knowingly vent or otherwise release into the environment any halons used in such equipment.

21. AKE owns and operates a business engaged in the manufacture of fire extinguishers, with headquarters at 32 Woodlake Drive, Rochester, Minnesota.

22. Subparts E and H apply to AKE because AKE manufactures, sells and services equipment that contains Halon 1211.

#### **Factual Background and Violations**

23. AKE is a "person" as defined in Subpart H, at 40 C.F.R. § 82.260.

24. AKE sells a fire extinguisher product named STOP-FYRE® in various sizes.

25. AKE's STOP-FYRE® product meets the definition of "product" as defined in Subpart E, at 40 C.F.R. § 82.104(r).

26. Upon information and belief, AKE's STOP-FYRE® product contains Halon 1211.

27. AKE's STOP-FYRE® product is not labeled with the warning statement required by 40 C.F.R. § 82.106 (a).

28. None of the exemptions from the warning label requirements of 40 C.F.R. § 82.106 (a), listed at 40 C.F.R. § 82.106 (b), apply to AKE's STOP-FYRE® products.

29. AKE's failure to properly label its STOP-FYRE® product is a violation of 40 C.F.R. § 82.106 (a).

30. In a series of promotional videos on its website, representatives of AKE release the contents of STOP-FYRE® for demonstration purposes.

31. AKE's release of halons into the environment from its STOP-FYRE® product is a violation of Subpart H, at 40 C.F.R. § 82.270 (b).

11/13/2019  
Date

Michael D. Harris  
Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

## CERTIFICATE OF MAILING


I certify that I sent a Finding of Violation, No. EPA-5-20-COE-01, by Certified Mail, Return Receipt Requested, to:

Allen Kronebusch, CEO  
AKE Safety Equipment  
32 Woodlake Drive  
Rochester, Minnesota 55904

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Sarah Kilgriff, Manager  
Land and Air Compliance Section  
Industrial Division  
Minnesota Pollution Control Agency  
[Sarah.Kilgriff@state.mn.us](mailto:Sarah.Kilgriff@state.mn.us)

On the 14<sup>th</sup> day of November 2019

  
\_\_\_\_\_  
Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7019 0140 0000 0722 3109

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Office of Small and Disadvantaged Business Utilization (OSDBU)

[www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu](http://www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu)

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman (ASBO)

[www.epa.gov/assessing-and-managing-small-business-asbestos-exposure](http://www.epa.gov/assessing-and-managing-small-business-asbestos-exposure) or 1-800-268-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### Small Business Environmental Assistance Program

<https://national.beap.org/>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance](http://www.epa.gov/compliance)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### Compliance Assistance Centers

[www.complianceassistance.net](http://www.complianceassistance.net)

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### Agriculture

[www.epa.gov/agriculture](http://www.epa.gov/agriculture)

#### Automotive Recycling

[www.trafrec.org](http://www.trafrec.org)

#### Automotive Service and Repair

[www.assr.org](http://www.assr.org) or 1-888-GRN-LINK

#### Chemical Manufacturing

[www.chemmfg.org](http://www.chemmfg.org)

#### Construction

[www.cicacenter.org](http://www.cicacenter.org)

#### Education

[www.campuserc.org](http://www.campuserc.org)

#### Food Processing

[www.fpfac.org](http://www.fpfac.org)

#### Healthcare

[www.herc.org](http://www.herc.org)

#### Local Government

[www.lgeanet.org](http://www.lgeanet.org)

#### Surface Finishing

<http://www.surfnet.org>

#### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

#### Printing

[www.printnet.org](http://www.printnet.org)

#### Ports

[www.portcenter.org](http://www.portcenter.org)

### Transportation

[www.tccenter.org](http://www.tccenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bcrcenter.org](http://www.bcrcenter.org)

### EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://www.epa.gov/home/epa-hotlines)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

#### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/catac](http://www.epa.gov/catac) or 1-919-541-0800

#### Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

#### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/etaa/imports](http://www.epa.gov/etaa/imports) or 1-734-214-4100

#### National Pesticide Information Center

[www.npic.orf.edu](http://www.npic.orf.edu) or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://www.nrc.uscg.mil> or 1-800-424-8802

#### Pollution Prevention Information Clearinghouse (PPIC) -

[www.epa.gov/p2/pollution-prevention-resource/ppic](http://www.epa.gov/p2/pollution-prevention-resource/ppic) or 1-202-566-0799

#### Safe Drinking Water Hotline -

[www.epa.gov/safewater-and-drinking-water/safe-drinking-water-hotline](http://www.epa.gov/safewater-and-drinking-water/safe-drinking-water-hotline) or 1-800-426-4791

#### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404